

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HOYA CORPORATION and HOYA
SURGICAL OPTICS, INC.

Plaintiffs,

V.

ALCON INC., ALCON LABORATORIES,
INC., and ALCON RESEARCH, LLC,

Defendants.

Civil Action No. 3:20-cv-03629

JURY TRIAL DEMANDED

**DECLARATION OF RYAN KANE IN SUPPORT OF DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' CLAIMS PURSUANT TO 12(B)(2) AND 12(B)(6)**

I, Ryan Kane, declare as follows:

1. I am a Partner at Kirkland & Ellis, counsel for Defendants Alcon Inc., Alcon Laboratories, Inc., and Alcon Research, LLC (collectively, “Defendants”). I submit this declaration in support of Defendants’ Motion to Dismiss. I have personal knowledge of the factual information stated herein.

2. Attached hereto in the Appendix to Defendants’ Motion to Dismiss (“Appendix”) as Exhibit 1 (APP.1–APP.6) is the sworn affidavit of Jean-Baptiste Emery, dated February 16, 2021.

3. Attached hereto in the Appendix as Exhibit 2 (APP.7–APP.10) is a true and accurate copy of the webpage from the FDA website entitled “Class 2 Device Recall Acrysof.IQ IOL w/UltraSert, System,” available at <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRes/res.cfm?ID=181244> (last accessed Feb. 19, 2021).

4. Attached hereto in the Appendix as Exhibit 3 (APP.11–APP.14) is a true and accurate copy of a webpage from the FDA website entitled “Premarket Approval (PMA)” relating to PMA No. P930014, Supplement No. S084, available at <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm?ID=P930014S084> (last accessed Feb. 19, 2021).

5. Attached hereto in the Appendix as Exhibit 4 (APP.15–APP.27) is a true and accurate copy of *Synergy Drone LLC, v. Parrot S.A. et al.*, 1:17-CV-00243-LY, D.I. 68 (W.D. Tex. Apr. 17, 2018).

6. Attached hereto in the Appendix as Exhibit 5 (APP.28–APP.33) are true and accurate screen captures of the video stills from a video entitled “Alcon UltraSert preloaded IOL delivery system,” available at <https://www.youtube.com/watch?v=uXWhS-BVcz4> (last accessed Feb. 19, 2021).

7. The first screen capture, Ex. 5 at APP.29, is a true and accurate screen capture of the video as it appears at the aforementioned website address.

8. The second screen capture, Ex. 5 at APP.30, is a true and accurate screen capture of the video at time stamp 1:52.

9. The third screen capture, Ex. 5 at APP.31, is a true and accurate screen capture of the video at time stamp 1:59.

10. The fourth screen capture, Ex. 5 at APP.32, is a true and accurate screen capture of the video at time stamp 2:19.

11. The fifth screen capture, Ex. 5 at APP.33, is a true and accurate screen capture of the video at time stamp 4:46.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 19, 2021.

By: /s/ Ryan Kane
Name: Ryan Kane